

## **REMARKS**

Pursuant to 37 CFR § 1.114, the Applicants submit the following amendments and remarks in addition to the fee set forth in 37 CFR § 1.17(e). The Applicants have amended claims 1, 5, 7 and 11 in response to the 35 U.S.C. § 102(b) rejections. Claim 25 has been amended to fix a typographical error. No claims have been added or canceled. Accordingly claims 1-25 remain pending in the application.

### **I. Examiner Interview Summary**

Applicants thank the Examiner for the courtesy of the telephone interview on July 25, 2007 in which the Applicants requested explanation of the 35 U.S.C. § 102(b) rejection of several claims. The Examiner acknowledged that the Final Office Action mailed on June 19 2007 failed to provide a reference which taught the placement of non-compliant data separate from a packet header, which is now explicitly recited in each of the independent claims. However, the Examiner refused to further discuss the rejection of the claims because the application was after final. Instead, the Examiner would only lay out the options before the Applicant as being to file a Request for Continued Exam or Appeal.

### **II. Claims Rejected Under 35 U.S.C. §102**

Claims 1-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,878,135 issued to Blatter et al. (hereinafter “Blatter”).

To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim. Thus, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In regard to claim 1, this claim has been amended to include the limitations of “placing non-compliant data separate from the synchronization point in the data stream; wherein the data stream is decodable by a compliant decoder, after the non-compliant data is replaced with compliant data” (emphasis added). The Applicants respectfully submit that these limitations are supported, for example, by paragraph [0016] of the Specification and Figure 8. Applicants believe that Blatter does not teach these elements of the claim. Blatter discloses a system wherein non-compliant data is conveyed within MPEG compatible adaptation fields of a packet header. (Blatter, column 10, lines 19-31.) The Examiner stated that a synchronization point is equivalent to a packet header and placing non-compliant data near the synchronization point is

equivalent to placing non-compliant data near the packet header. (Final Office Action, ¶ 4.) However, Blatter does not disclose a system in which non-compliant data is placed separate from the synchronization point in the data stream. By failing to disclose a system in which non-compliant data is placed separate from the synchronization point, Blatter does not teach each element of this claim. If Examiner maintains this rejection, Applicants request that Examiner clarify his position as to the manner in which Blatter discloses this element of claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1.

In regard to claims 5, 7 and 11, these claims have been amended to include similar limitations to those disclosed in claim 1. The Applicants respectfully submit that these limitations are supported, for example, by paragraph [0016] of the Specification and Figure 8. Therefore, for at least the reasons discussed above pertaining to claim 1, the limitations of amended claims 5, 7 and 11 are not disclosed by Blatter. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 5, 7 and 11.

Claims 2-4, 5, 6, 8-10, and 12-25 depend from independent claims 1, 5, 7 and 11, respectively, and incorporate the limitations thereof. Thus, at least for the reasons discussed above in regard to independent claims 1, 5, 7, and 11, Blatter does not teach each element of these dependent claims. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2-4, 5, 6, 8-10, and 12-25.

### **III. Request for Interview Prior to the Next Office Action**

The Applicants respectfully request an interview prior to the Examiner's issuance of the next Office Action. Please contact the attorney listed below to schedule a teleconference.

## **CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely claims 1-25 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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Dated: August 2, 2007

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Melissa Stead

August 2, 2007